



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 15, 1992

Mr. Edward H. Perry  
Assistant City Attorney  
Office of the City Attorney  
City Hall  
Dallas, Texas 75201

OR92-294

Dear Mr. Perry:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14920.

You have received a request for a computerized "download" of information relating to dogs licensed in the City of Dallas (the "city"), including, but not limited to, the owner's name and address, and the name, breed, age, sex, and color of the dog. Veterinarians are required to transmit this information to the city's manager of animal control in connection with vaccinations pursuant to section 7-26 of the Dallas City Code. The requestor has subsequently informed us that she does not seek information which identifies the veterinarian or the veterinary clinic from which the information originated. You claim that the requested information is excepted from required public disclosure by sections 3(a)(4) and 3(a)(10) of the Open Records Act.

Section 3(a)(4) excepts from required public disclosure "information which, if released, would give advantage to competitors or bidders." The purpose of section 3(a)(4) is to protect governmental interests in commercial transactions. Open Records Decision No. 541 (1990). You do not indicate how the requested information relates to a competitive bidding situation or to a commercial transaction to which the city is party. Accordingly, you may not properly invoke the section 3(a)(4) exception.

Section 3(a)(10) excepts from required public disclosure two types of information: (1) trade secrets, and (2) commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision.

You claim that the requested information constitutes a trade secret. The Texas Supreme Court has adopted the definition of trade secret from the Restatement of Torts, section 757, which holds a trade secret to be

any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. It may be a formula for a chemical compound, a process of manufacturing, treating or preserving materials, a pattern for a machine or other device, or a list of customers.

*Hyde Corp. v. Huffines*, 314 S.W.2d 763, 776 (Tex.), *cert. denied*, 358 U.S. 898 (1958); *see also* Open Records Decision No. 552 (1990) at 2. The Restatement lists six factors to be considered in determining whether information constitutes a trade secret:

- (1) the extent to which the information is known outside of [the company];
- (2) the extent to which it is known by employees and others involved in [the company's] business;
- (3) the extent of measures taken by [the company] to guard the secrecy of the information;
- (4) the value of the information to [the company] and [its] competitors;
- (5) the amount of effort or money expended by [the company] in developing the information;
- (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

RESTATEMENT OF TORTS § 757, cmt. b (1939). These factors are indicia of whether information, including customer lists, constitutes a trade secret; depending on the information being considered, one factor alone may be indication of a trade secret. *See* Open Records Decision Nos. 552 at 3; 494 (1988), citing *Expo Chemical Co., Inc.*

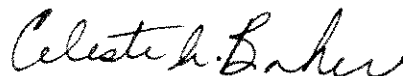
*v. Brooks*, 572 S.W.2d 8 (Tex. Civ. App.--Houston [1st Dist.] 1978), *rev'd on other grounds*, 576 S.W.2d 369 (Tex. 1979).

You advise us that the information supplied to the city's Animal Control Division by veterinarians is not widely known outside veterinarians' offices and that it would be extremely difficult to duplicate this information unless the requested information were released. You also assert that release of the requested information would give competitors a substantial competitive advantage. In a letter to this office, David Traynor, D.V.M., on behalf of himself and other Dallas veterinarians, has advised us that vaccination information is disclosed only when necessary to safeguard human health, *i.e.*, to physicians in cases involving dog bites. Otherwise, the secrecy of information relating to veterinarians' clients is maintained. Dr. Traynor further maintains that vaccination information is of value to veterinary practices because it is used to remind veterinarians and pet owners of impending vaccination deadlines. He also asserts that veterinarians create this information at great effort and that it would be almost impossible to duplicate.

We have considered your arguments and those of Dr. Traynor and have examined the documents submitted to us for review. You have demonstrated that the requested information meets the six criteria listed in the Restatement of Torts, *supra*. Accordingly, we conclude that you have made a *prima facie* case for establishing a trade secret and may withhold the requested information pursuant to section 3(a)(10) of the Open Records Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-294.

Yours very truly,



Celeste A. Baker  
Assistant Attorney General  
Opinion Committee

CAB/GK/lmm

Ref.: ID# 14920, 15473, 15196, 16002

cc: Ms. Stephanie Clark  
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